

by section 314(c)(1) of Pub. L. 107-108 is effective as of Oct. 26, 2001, and as if included in Pub. L. 107-56 as originally enacted.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-549 effective 60 days after Oct. 30, 1984, except where otherwise expressly provided, see section 9(a) of Pub. L. 98-549, set out as a note under section 521 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

#### **§ 1805a. Clarification of electronic surveillance of persons outside the United States**

Nothing in the definition of electronic surveillance under section 1801(f) of this title shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

(Pub. L. 95-511, title I, §105A, as added Pub. L. 110-55, §2, Aug. 5, 2007, 121 Stat. 552.)

#### TERMINATION OF SECTION

*For termination of section by section 6(c) of Pub. L. 110-55, see Effective and Termination Dates note below.*

#### EFFECTIVE AND TERMINATION DATES

Except as otherwise provided, section effective immediately after Aug. 5, 2007, and to cease to have effect 180 days after Aug. 5, 2007, see section 6 of Pub. L. 110-55, set out as an Effective and Termination Dates of 2007 Amendment note under section 1803 of this title.

#### **§ 1805b. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States**

##### **(a) Authorizing acquisition of foreign intelligence information concerning persons outside the United States; certification**

Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 1805c of this title;

(2) the acquisition does not constitute electronic surveillance;

(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

(5) the minimization procedures to be used with respect to such acquisition activity meet

the definition of minimization procedures under section 1801(h) of this title.

This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification. In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

##### **(b) Specifics required in certification**

A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

##### **(c) Transmittal of certification**

The Attorney General shall transmit as soon as practicable under seal to the court established under section 1803(a) of this title a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under this section.

##### **(d) Compliance with acquisition procedures; reports**

An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 1808(a) of this title.

##### **(e) Direction to provide information and maintain records**

With respect to an authorization of an acquisition under this section, the Director of National Intelligence and Attorney General may direct a person to—

(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.